

(3) A party to the original request acted in bad faith when relying upon the ruling.

(Approved by the Office of Management and Budget under control number 1505-0105)

[52 FR 23979, June 26, 1987. Redesignated and amended at 64 FR 45451, 45453, Aug. 20, 1999]

§ 103.87 Disclosing information.

(a) Any part of any administrative ruling, including names, addresses, or information related to the business transactions of private parties, may be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. If the request for an administrative ruling contains information which the requestor wishes to be considered for exemption from disclosure under the Freedom of Information Act, the requestor should clearly identify such portions of the request and the reasons why such information should be exempt from disclosure.

(b) A requestor claiming an exemption from disclosure will be notified, at least 10 days before the administrative ruling is issued, of a decision not to exempt any of such information from disclosure so that the underlying request for an administrative ruling can be withdrawn if the requestor so chooses.

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APPENDIX TO PART 103— ADMINISTRATIVE RULINGS

88-1 (June 22, 1988)

Issue

What action should a financial institution take when it believes that it is being misused by persons who are intentionally structuring transactions to evade the reporting requirement or engaging in transactions that may involve illegal activity such as drug trafficking, tax evasion or money laundering?

Facts

A teller at X State Bank notices that the same person comes into the bank each day and purchases, with cash, between \$9,000 and \$9,900 in cashier's checks. Even when aggregated, these purchases never exceed \$10,000 during any one business day. The teller also notices that this person tries to go to different tellers for each transaction and is very reluctant to provide information about his frequent transactions or other informa-

tion such as name, address, etc. Likewise, the payees on these cashier's checks all have common names such as "John Smith" or "Mary Jones." The teller informs the bank's compliance officer that she believes that this person is structuring his transactions in order to evade the reporting requirements under the Bank Secrecy Act. X State Bank wants to know what actions it should take in this situation or in any other situation where a transaction or a person conducting a transaction appears suspicious.

Law and Analysis

As it appears that the person may be intentionally structuring the transactions to evade the Bank Secrecy Act reporting requirements, X State Bank should immediately telephone the local office of the Internal Revenue Service ("IRS") and speak to a Special Agent in the IRS Criminal Investigation Division, or should call 1-800-BSA-CTRS, where his call will be referred to a Special Agent.

Any information provided to the IRS should be given within the confines of § 1103(c) of the Right to Financial Privacy Act, 12 U.S.C. 3401-3422. Section 1103(c) of that Act permits a financial institution to notify a government authority of information relevant to a possible violation of any statute or regulation. Such information may consist of the names of any individuals or corporate entities involved in the suspicious transactions; account numbers; home and business addresses; social security numbers; type of account; interest paid on account; location of the branch or office where the suspicious transaction occurred; a specification of the offense that the financial institution believes has been committed; and a description of the activities giving rise to the bank's suspicion. S. Rep. 99-433, 99th Cong., 2d Sess., pp. 15-16.

Additionally, the bank may be required, by the Federal regulatory agency which supervises it, to submit a criminal referral form. Thus, the bank should check with its regulatory agency to determine whether a referral form should be submitted.

Lastly, under the facts as described above, X State Bank is not required to file a Currency Transaction Report ("CTR") because the currency transaction (i.e. purchase of cashier's checks) did not exceed \$10,000 during one business day. If the bank had found that on a particular day the person had in fact used a total of more than \$10,000 in currency to purchase cashier's checks, but had each individual cashier's check made out in amounts of less than \$10,000, the bank is obligated to file a CTR, and should follow the other steps described above.